

APPEAL NO. 021092
FILED JUNE 12, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on April 2, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable injury, in the form of an occupational disease or otherwise, on _____, or on any other relevant date, and that he did not have disability. The claimant appeals, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. The claimant additionally argues that the hearing officer based his decision on the ethnicity of the claimant. The respondent (carrier) responds that the hearing officer's determinations are supported by medical evidence offered by the claimant and urges affirmance.

DECISION

Affirmed.

The claimant testified that his job involved repetitive tasks and that, as a result of his work-related activities, he sustained a compensable occupational disease. The claimant presented medical evidence to support his position that on _____, he sustained a repetitive trauma injury and that he had disability. The carrier presented medical evidence to support its position that the claimant did not sustain a repetitive trauma injury and that he therefore did not have disability.

The hearing officer did not err in determining that the claimant did not sustain a compensable injury in the form of an occupational disease. In a case such as the one before us where both parties presented evidence on the disputed issues, the hearing officer must look at all of the relevant evidence to make factual determinations and the Appeals Panel must consider all of the relevant evidence to determine whether the factual determinations of the hearing officer are so against the great weight and preponderance of the evidence as to be clearly wrong or unjust. Texas Workers' Compensation Commission Appeal No. 941291, decided November 8, 1994. We have reviewed the complained-of determinations and conclude that the issues involved fact questions for the hearing officer. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm his determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

As to the claimant's contention that the hearing officer based his determination "on the color of claimant's skin," our review of the record does not indicate that there

was any bias against the claimant based on race. The hearing officer determined that "[t]he evidence does not indicate that Claimant's hand complaints are caused by his work for Employer, rather than by a non-work related activity, such as playing basketball." A medical report dated July 18, 2001, from Dr. L states that the claimant had "been playing basketball & exacerbated numbness in hands." There is no indication in the record that the hearing officer was biased as to any issues regarding race or culture.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **FIRST AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JAMES W. FISHER
8111 LBJ FREEWAY
DALLAS, TEXAS 75251.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge